

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION**

**JOE COMES and
RILEY PAINT, INC., an Iowa
Corporation**

Plaintiffs,

VS.

MICROSOFT CORPORATION,
A Washington Corporation,

Defendants.

: NO. CV-05-562

: PLAINTIFFS' RESISTANCE
: TO MOTION TO EXTEND
: TIME TO RESPOND TO
: PLAINTIFF'S MOTION TO
: AMEND THE PETITION

COME NOW Plaintiffs in the above entitled matter and resists Defendant's Motion to Extend Time to Respond to Plaintiffs' Motion to Amend and in support thereof states to the Court:

1. Plaintiffs filed their Motion to Amend on September 16, 2005 within the time allowed for amendment.
2. Defendant's response thereto was due on September 26 , 2005 under and pursuant to IRCP 1.441(4).
3. As a matter of professional courtesy, Plaintiffs voluntarily agreed to Defendant's request for more time to prepare their response.
4. Despite Defendant's representations that it required the extra time to resist the motion to amend , it did not resist Plaintiffs' Motion to amend on October 14, 2005. Instead, the day before it was due, Microsoft removed the case to federal court on completely frivolous grounds.

5. Defendant's removal is filed for the purpose of delay. It is wholly without merit. Defendant should not be permitted to take further advantage of Plaintiffs' extension of professional courtesy. Its response was originally due on September 26, 2005. The time was extended by Plaintiff until October 14, 2005. No further extension should be granted by the Court.

WHEREFORE, Plaintiffs pray that Defendant's Motion for Extension of Time be denied.

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I hereby certify that on October 18, 2005, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which sent notification of said filing to all CM/ECF participants.

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